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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,350	12/21/2000	Jon Ryan Welcher	147-1	1685
22653	7590	01/21/2005	EXAMINER	
EDWARD W CALLAN NO. 705 PMB 452 3830 VALLEY CENTRE DRIVE SAN DIEGO, CA 92130			ADAMS, JONATHAN R	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/746,350	Applicant(s) WELCHER ET AL.	
	Examiner Jonathan R Adams	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 5, 10-26 have been amended.

Response to Arguments

2. Applicant's arguments filed 7/30/04 have been fully considered but they are not persuasive.
3. Applicants arguments concerning the alteration of claim language to "an apparatus *comprising* a discrete ... device consisting of..." are not persuasive because the alteration does not further limit the claims.
4. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., inexpensive, easily used) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge is generally available to one of ordinary skill in the art.

7. In response to applicant's argument that Anderson et al., teach away from providing redundant functions. The benefits of redundancy in security systems is well known to a person of ordinary skill in the art, regardless of the negative effects of redundancy in other circumstances.

8. In response to applicant's argument that the prior art does not teach for the access prevention functions to be disposed on the chassis that contains the given computer. The combination of Anderson and Thacker teach a cubical workstation (chassis) containing access prevention functions (Fig 2, '608).

9. In response to applicant's argument concerning the terminal/external firewall device, the Key View can be considered as a firewall device due to its switching/blocking nature, and any device controlling it remotely can be considered an external firewall device.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-9, and 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 1 and 10 recites the broad recitation "apparatus for controlling access comprising..." , and the claim also recites "access prevention device consisting of..." , which is the narrower statement of the range/limitation.

Further, the dependant claims add features exterior to the closed "consisting of" language of claims 1 and 10.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-4 rejected under 35 U.S.C. 102(a) as being anticipated by Anderson et al., US Patent No 6633905 (hereafter referred to as '905).

3. As to claim 1:

'905 teaches a switching system for controlling communication access comprising:

Control terminal / Keyview PC (Fig 28, Element 200, '905)

First connector / (Fig 29, Element 213, '905)

Second connector connecting to network / Connection to Network (Fig 29, Element 200-206, '905)

Electrically powered switching means / Switching between host PCs (Col 50, Line 29, '905)

Activated by control signal / Keyview automatically logs out any user after the number of minutes (Col 62, Line 18, '905)

Control terminal connected to switching means providing control signal / Key view menu mode permits switching between host PC's (Col 50, Line 29, '950)

4. As to claim 2:

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Manually activated means for providing control signal / Keyboard controlled switching between PCs (Col 11, Line 59, '905)

5. As to claim 3:

Power terminal connected to switching means for providing power / AC power (Fig 12, Element 200, '905)

6. As to claim 4:

Control device connected to control terminal / Inactivity timer logic (Col 61, Line 67, '905)

Automatically opening switch in response to measuring interval / Automatic logout after a number of minutes (Col 62, Lines 14-26, '905)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-26 rejected under 35 U.S.C. 103(a) as being unpatentable over '905 in view of Thacker, US Patent No 6147608 (hereafter referred to as '608).

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9. As to claim 5:

'905 teaches a switching system for controlling communication access using a timer to automatically control access with a control signal based on whether a person is present at a workstation (Col 62, Lines 14-26, '905). '905 does not teach to further determine user presence by sensing proximity. '608 teaches a system for determining if a person is at a workstation using a proximity detector. It would have been obvious to a person of ordinary skill in the art at the time of invention to use the proximity detector to determine user presence at a workstation as in '608 with the presence determining means in the invention of '905. One of ordinary skill in the art would have been motivated to use the proximity detector to determine user presence at a workstation as in '608 with the presence determining means in the invention of '905 because providing redundant means for proximity detection would increase presence detection reliability.

10. As to claim 6:

A timer for selecting a predetermined time / Number of minutes setting (Col 62, Line 9, '905)

Automatic control is in response to given control signal / Automatic logout after a number of minutes (Col 62, Lines 14-26, '905)

11. As to claims 7 and 8:

'905 as modified above teaches a switching system for controlling communication access for both input and output (Col 2, Line 22, '905). '905 as modified above does

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not teach for the switching means to only prevent input or the opposing, to only prevent output. The examiner takes official notice as to reducing the function set to only permit one of either input or output. It would have been obvious to a person of ordinary skill in the art at the time of invention to reduce the function set of '905 as modified above to only permit one of either input or output. One of ordinary skill in the art would have been motivated to reduce the function set to only permit one of either input or output because doing so would simplify design and would still be useful in some applications.

12. As to claim 9:

Switching means is connected for preventing any network communication / Keyview II intercepts all of the critical input and output functions of a PC... (Col 2, Line 22, '905)

13. As to claim 10:

Claim 10 corresponds to claim 1 and further comprises:

Preventing first connector from receiving any network communications from the second connector and/or preventing second connector from receiving any network communications from the first connector / Keyview II intercepts all of the critical input and output functions of a PC... (Col 2, Line 22, '905)

14. As to claim 11:

Claim 11 corresponds to claim 1 and further comprises:

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Access prevention device is disposed within a chassis that contains the computer / cubicle (Fig 2, Element 90, '608)

15. As to claim 12:

Control device is disposed on said chassis / cubicle (Fig 1, Element '905, '608)

16. As to claim 13:

Keyboard connected to computer / (Fig 28, Element 214, '905)

17. As to claim 14:

Mouse connected to computer / (Fig 28, Element 214, '905)

18. As to claim 15:

Manually operated control device / Keyboard controlled switching between PCs (Col 11, Line 59, '905)

19. As to claim 16:

Claim 16 corresponds to claim 5

20. As to claim 17:

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Means for measuring each interval when the computer is not performing a routine in response to an input received... providing control signal / Inactivity timer logic (Col 61, Line 67, '905)

21. As to claim 18:

Claim 18 corresponds to claim 1 and further comprises:

A modem connected to the given port for processing bi-directional communication / KEY-VIEW PC permit access via a LAN, modem, the Internet and/or direct serial or parallel port access (Col 1, Line 60, '905)

22. As to claim 19:

Access prevention device is disposed within chassis that contains the modem / Modem (Fig 12, Element 90, '905)

23. As to claim 20:

Manually operable remote control device for transmitting control signal / KEY-VIEW PC permit access via a LAN, modem, the Internet and/or direct serial or parallel port access (Col 1, Line 60, '905), all of these represent forms of manually operable remote control when connected to a computing device

24. As to claims 21-26:

Claims 21-26 recite elements from claims 11-17 and claim 20


Conclusion

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R Adams whose telephone number is (571)272-3832. The examiner can normally be reached on Monday – Friday from 10am to 6pm.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is (571)272-3838. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


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TECHNOLOGY CENTER 2100

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